

**From:** Steve Cohen  
**To:** Microsoft ATR  
**Date:** 12/15/01 2:33pm  
**Subject:** My comments re: US vs Microsoft

I am writing to express my opposition to the proposed settlement in the case. I am a software developer with over ten years in the industry. I have worked with Microsoft products and others for most of those ten years. I have seen the harm that the Microsoft monopoly does to the industry.

#### THE SETTLEMENT IN MANY WAYS MAKES THINGS WORSE

The settling of this suit on the terms proposed would be a travesty. Although convicted of many violations of antitrust law, the settlement does not require Microsoft to admit any wrongdoing and they have not done so. Worse yet, the settlement resolves many of the ambiguous portions of earlier decisions upon which most of the case was argued - in Microsoft's favor! Microsoft's ability to destroy competition by incorporating new features into the Windows operating system has been explicitly allowed. How is that a reasonable outcome of a case where the defendant was convicted?

#### MICROSOFT'S PREDATORY DESTRUCTION OF THE INDEPENDENT SOFTWARE INDUSTRY

I remember in the early 1990's when Microsoft was eager to get Independent Software Vendors to write to the Windows platform; I remember a few years later seeing Microsoft enter the market with competing applications to those which had been written for the Windows platform. Software Vendors who may have envisioned years of profitable activity as a "partner" of Microsoft now found that their partner was directly competing with them - enabled by the unfair monopoly Microsoft enjoyed over Operating System distribution through new computer sales.

Today, the Independent Software industry is a shambles. In the late nineties, venture capital for competitors to Microsoft dried up. The filing of US vs. Microsoft in 1997 temporarily reversed this trend as Microsoft temporarily was forced to stop some of its most egregious predatory practices. This settlement, if adopted, will revert this industry to this unhealthy state.

#### POOR SECURITY PRACTICES BY MICROSOFT PROTECTED BY ITS MONOPOLY

Microsoft products are notorious for the poor security they provide. Much of today's problems with viruses and other malicious junk distributed on the Internet would be lessened if this security were improved. A marketplace in which only Microsoft products were readily available would remove whatever incentives Microsoft has to improve this aspect of their products. And recent comments prove that they still

don't get it.

Recently, Scott Culp, Manager of the Microsoft Security Response Center issued a broadside to the industry calling for there to be less talk about known security weaknesses in Microsoft products. Rather than fixing problems, they want to be free to hide problems and be shielded from bad publicity.

The less "monocultural" the general computing environment is within society, the more security there will be against these threats. Thus diversity in computing environments is in and of itself a benefit to the general health of our networked computing environment. And this is all the more true when the dominant player is the weakest link in terms of security.

#### DISCRIMINATION AGAINST "OPEN SOURCE" SOFTWARE

There are other problems with the settlement, even with some of the sections that would seem to be improvements. Certain sections of the settlement protect Microsoft's competitors "in commerce" against actions which Microsoft has committed before. Network protocols, file formats and similar technical information must be freely shared with these competitors.

But the "in commerce" clause protects Microsoft from disclosing this information to what have become its most important competitors - Open Source software, which has emerged as a viable alternative in many areas, particularly the Internet. Because Open Source is not distributed on a for-profit basis, it is not protected as are commercial software companies. Worse yet, Microsoft is permitted to set the criteria designating to what businesses it is required to release this information.

And yet many Open Source applications have been adopted for use by for-profit companies, as well as the United States Armed Forces and other branches of government. They find it to be not only cost-effective but also find the ability to fix bugs themselves an advantage that cannot be duplicated in the world of commercial software, where bugs can take months if not years to be fixed, if they are fixed at all. Also, Open Source programs such as SAMBA allow Windows computers and non-Windows computers to coexist and communicate well on the same local-area networks, a big advantage. If Microsoft is not required to release its network protocols to the Samba project, this facility will be killed, thus forcing many customers who might otherwise not wish to buy only Windows computers to do so, thus FURTHERING THE MONOPOLY EVEN MORE.

The restriction on providing protocols only to organizations "in commerce" must be lifted. There is no reason why these specifications

should not be freely available to anyone. Some might object that this would release information compromising security - this is refuted by the mess that already exists with unreleased information, as well as by the fact that other organizations which DO release this information have far fewer security problems than Microsoft systems. At a minimum the decision of who to release to should NOT be made by the convicted defendant in this case, Microsoft.

#### LACK OF CONSUMER CHOICE IN NEW COMPUTER PURCHASES

Another problem is the whole problem of customers forced to take operating systems they may not want when purchasing a new computer. If a consumer wishes to run a different operating system on a new computer, that consumer should not be forced to pay for an OS he or she will not use. This practice should be forbidden since it is at the core of so many of the abuses on which Microsoft was convicted.

#### CONCLUSION

In conclusion, it is my belief that this settlement is a total cave-in to the convicted defendant in this case, and would effectively remove this industry from antitrust protections of the law. While the original remedy of breakup ordered by Judge Jackson is not a necessity (and many sincere people have questioned its effectiveness), the terms of this settlement need to be tightened to prevent Microsoft from the abusing the great wiggle-room this ill-advised settlement gives them.

Sincerely,  
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